

SENATE BILL 554

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2003 Regular Session  
3r1347  
CF 3r1208

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By: **Senators Teitelbaum and Grosfeld**  
Introduced and read first time: January 31, 2003  
Assigned to: Finance

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Committee Report: Favorable with amendments  
Senate action: Adopted with floor amendments  
Read second time: March 14, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Medicaid Reimbursement - Community-Based Services for Children with**  
3 **Disabilities**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to apply  
5 to the Centers for Medicare and Medicaid Services of the United States  
6 Department of Health and Human Services for an amendment to the State  
7 Medical Assistance Program to allow the Department to receive certain federal  
8 matching funds for the nonroom-and-board portion of certain residential care  
9 costs; requiring stating the intent of the General Assembly that the Governor  
10 include certain funds in the budget under certain conditions for the Subcabinet  
11 for Children, Youth, and Families Resource Fund to create a certain interagency  
12 pool; requiring that the interagency pool created under this Act be used to  
13 provide certain community-based services and community-based out-of-home  
14 placements needed by certain children with mental or developmental  
15 disabilities; requiring the Office of Children, Youth, and Families to adopt  
16 certain regulations under certain circumstances; providing that the Act is not  
17 intended to result in the reduction of certain federal funds; providing for the  
18 termination of this Act under certain circumstances; and generally relating to  
19 community-based services for children with disabilities.

20 BY adding to  
21 Article - Health - General  
22 Section 15-136  
23 Annotated Code of Maryland  
24 (2000 Replacement Volume and 2002 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Health - General**

2 15-136.

3 (A) ON OR BEFORE DECEMBER 1, 2003, THE DEPARTMENT SHALL SUBMIT AN  
4 APPLICATION TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES TO AMEND  
5 THE STATE MEDICAL ASSISTANCE PROGRAM TO ALLOW THE DEPARTMENT TO  
6 RECEIVE FEDERAL MATCHING FUNDS FOR PART OF THE NONROOM-AND-BOARD  
7 PORTION OF THE COSTS OF ALL ELIGIBLE RESIDENTIAL CARE THAT ARE RELATED  
8 TO THE THERAPEUTIC COMPONENTS OF CARE PROVIDED BY STATE AND LOCAL  
9 AGENCIES THROUGH PUBLIC OR PRIVATE PROVIDERS TO INDIVIDUALS UNDER THE  
10 AGE OF 21 YEARS.

11 (B) THE APPLICATION SUBMITTED BY THE DEPARTMENT UNDER SUBSECTION  
12 (A) OF THIS SECTION:

13 (1) SHALL APPLY TO A RESIDENTIAL CARE PLACEMENT PROVIDING  
14 THERAPEUTIC OR REHABILITATIVE SERVICES IN ADDITION TO ROOM AND BOARD  
15 SERVICES TO AN INDIVIDUAL WHO IS:

16 (I) UNDER THE AGE OF 21 YEARS; AND

17 (II) IN THE CARE OR CUSTODY OF, COMMITTED TO, OR  
18 VOLUNTARILY PLACED BY ANY STATE OR LOCAL AGENCY IN THE STATE; AND

19 (2) SHALL INCLUDE PLACEMENTS IN: RESIDENTIAL PROGRAMS THAT  
20 HAVE RATES SET BY THE INTERAGENCY RATES COMMITTEE.

21 ~~(I) GROUP HOMES;~~

22 ~~(II) THERAPEUTIC FOSTER HOMES OR PROVIDERS;~~

23 ~~(III) ALTERNATIVE LIVING UNITS OR PROVIDERS;~~

24 ~~(IV) RESPITE FACILITIES;~~

25 ~~(V) SHELTERS;~~

26 ~~(VI) CRISIS PROGRAMS;~~

27 ~~(VII) INDEPENDENT LIVING PROGRAMS;~~

28 ~~(VIII) SCHOOLS; OR~~

29 ~~(IX) ANY OTHER RESIDENTIAL SETTING FOR WHICH THE STATE IS~~  
30 ~~NOT CURRENTLY RECEIVING FEDERAL MEDICAL ASSISTANCE MATCHING FUNDS~~  
31 ~~FOR THE NONROOM-AND-BOARD PORTION OF THE STATE MEDICAL ASSISTANCE~~  
32 ~~PROGRAM.~~

33 (C) (1) FOR FISCAL YEAR 2004 AND EACH SUBSEQUENT FISCAL YEAR, THE  
34 GOVERNOR SHALL PROVIDE FUNDS IN THE BUDGET FOR THE SUBCABINET FOR THE

~~1 CHILDREN, YOUTH, AND FAMILIES RESOURCE FUND ESTABLISHED UNDER ARTICLE  
2 49D OF THE CODE IN AN AMOUNT EQUAL TO THE AMOUNT OF FEDERAL FUNDS  
3 RECEIVED UNDER SUBSECTION (A) OF THIS SECTION DURING THE MOST RECENTLY  
4 COMPLETED FISCAL YEAR, SUBJECT TO ADJUSTMENT IN ACCORDANCE WITH  
5 SUBSECTION (E) OF THIS SECTION.~~

6 (C) (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE GOVERNOR  
7 RETAIN ANY ADDITIONAL FUNDS GENERATED BY AN INCREASE IN FEDERAL  
8 FINANCIAL PARTICIPATION UNDER THIS SECTION WITHIN THE BUDGET OF THE  
9 SUBCABINET FOR THE CHILDREN, YOUTH, AND FAMILIES RESOURCE FUND  
10 ESTABLISHED UNDER ARTICLE 49D OF THE CODE, IN AN AMOUNT EQUAL TO THE  
11 AMOUNT OF FEDERAL FUNDS RECEIVED UNDER SUBSECTION (A) OF THIS SECTION  
12 DURING THE MOST RECENTLY COMPLETED FISCAL YEAR;

13 (I) LESS ANY ADMINISTRATIVE COSTS INCURRED BY THE  
14 DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT OF JUVENILE  
15 JUSTICE, AND THE DEPARTMENT OF HUMAN RESOURCES IN IMPLEMENTING THE  
16 PROGRAMS REQUIRED UNDER THIS SECTION; AND

17 (II) SUBJECT TO THE ADJUSTMENT IN ACCORDANCE WITH  
18 SUBSECTION (E) OF THIS SECTION.

19 (2) THE FUNDS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION  
20 SHALL BE USED BY THE SUBCABINET FOR CHILDREN, YOUTH, AND FAMILIES TO  
21 CREATE AN INTERAGENCY POOL OF FUNDS TO PROVIDE SERVICES TO CHILDREN  
22 WITH DISABILITIES.

23 (3) THE POOL OF INTERAGENCY FUNDS ESTABLISHED UNDER THIS  
24 SUBSECTION SHALL BE USED TO FUND THE COMMUNITY-BASED SERVICES AND  
25 COMMUNITY-BASED OUT-OF-HOME PLACEMENTS NEEDED BY CHILDREN WITH  
26 MENTAL OR DEVELOPMENTAL DISABILITIES NOT IN STATE CUSTODY, REGARDLESS  
27 OF ELIGIBILITY FOR THE STATE MEDICAL ASSISTANCE PROGRAM, IF:

28 (I) THE CHILD IS IN AN OUT-OF-HOME PLACEMENT AND HAS  
29 BEEN RECOMMENDED FOR DISCHARGE BUT THE CHILD'S FAMILY IS UNWILLING OR  
30 UNABLE TO HAVE THE CHILD RETURN HOME; OR

31 (II) THE CHILD REMAINS IN THE HOME BUT THE CHILD'S FAMILY IS  
32 UNABLE TO PROVIDE APPROPRIATE CARE FOR THE CHILD WITHOUT ADDITIONAL  
33 SERVICES AND THE CHILD IS EITHER AT RISK OF REQUIRING AN OUT-OF-HOME  
34 PLACEMENT OR THE TREATING PROFESSIONALS HAVE RECOMMENDED AN  
35 OUT-OF-HOME PLACEMENT.

36 (D) (1) IF FUNDS ARE PROVIDED UNDER SUBSECTION (C) OF THIS SECTION,  
37 THE GOVERNOR'S OFFICE FOR CHILDREN, YOUTH, AND FAMILIES SHALL ADOPT  
38 REGULATIONS TO CARRY OUT THE PROVISIONS OF SUBSECTION (C)(3) OF THIS  
39 SECTION.

40 (2) THE REGULATIONS SHALL:

1 (I) INCLUDE THE CRITERIA FOR ELIGIBILITY AND FOR  
2 PRIORITIZATION OF ELIGIBLE CHILDREN; AND

3 (II) BE DEVELOPED WITH INPUT FROM PARENTS OF A CHILD WITH  
4 DISABILITIES, GROUPS REPRESENTING FAMILIES OF POTENTIALLY ELIGIBLE  
5 CHILDREN, ADVOCACY ORGANIZATIONS, THE PROTECTION AND ADVOCACY SYSTEM  
6 FOR PERSONS WITH DISABILITIES, PROVIDERS, LOCAL AGENCIES SERVING  
7 CHILDREN WITH DISABILITIES, AND SUBCABINET AGENCIES.

8 (E) (1) NOTHING IN THIS SECTION IS INTENDED TO RESULT IN THE  
9 REDUCTION OF FEDERAL FUNDS AVAILABLE TO THE DEPARTMENT OF HUMAN  
10 RESOURCES OR THE DEPARTMENT OF JUVENILE JUSTICE UNDER TITLE IV-E OF THE  
11 SOCIAL SECURITY ACT FOR THE ROOM AND BOARD COSTS OF ELIGIBLE RESIDENTIAL  
12 CARE.

13 (2) IF, AS A RESULT OF ACTIONS TAKEN UNDER THIS SECTION, THE  
14 FEDERAL MATCHING FUNDS AVAILABLE TO THE DEPARTMENT OF HUMAN  
15 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE UNDER TITLE IV-E OF  
16 THE SOCIAL SECURITY ACT ARE REDUCED BECAUSE THE PERCENTAGE OF  
17 RESIDENTIAL CARE COSTS ALLOCATED TO TITLE IV-E IS REDUCED, THE GOVERNOR  
18 SHALL ADJUST THE AMOUNT OF FUNDS PROVIDED UNDER SUBSECTION (C) OF THIS  
19 SECTION TO PREVENT ANY RESULTING LOSS TO THE DEPARTMENT OF HUMAN  
20 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE.

21 (3) THE ADJUSTMENT OF FUNDS UNDER PARAGRAPH (2) OF THIS  
22 SUBSECTION SHALL BE BASED ON DETERMINING THE AMOUNT OF TITLE IV-E  
23 REIMBURSEMENT THAT WOULD HAVE BEEN RECEIVED BY THE DEPARTMENT OF  
24 HUMAN RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE PRIOR TO  
25 OCTOBER 1, 2003 USING THE CURRENT PERCENTAGE OF RESIDENTIAL CARE COSTS  
26 THAT IS ALLOCATED TO TITLE IV-E.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of  
28 Health and Mental Hygiene shall monitor the status of the application for a waiver  
29 amendment from the Centers for Medicare and Medicaid Services applied for in  
30 accordance with § 15-136 of the Health - General Article as enacted by Section 1 of  
31 this Act. The Department, within 5 working days of the date of the approval or denial  
32 of the waiver amendment, shall notify the Department of Legislative Services, in  
33 writing, at 90 State Circle, Annapolis, Maryland, 21401. If the waiver amendment is  
34 denied by the Centers for Medicare and Medicaid Services, at the end of the date on  
35 which the Department of Legislative Services receives notice of the denial, with no  
36 further action required by the General Assembly, this Act shall be abrogated and of no  
37 further force and effect.

38 ~~SECTION 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
39 effect October 1, 2003.

